IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

LARRY JOHNSON, WENDY WALKER,	§	
AMELIA PELLICCIOTTI;	§	
	§	
NATIONAL FEDERATION	§	
OF THE BLIND OF TEXAS; and	§	
	§	
THE COALITION OF TEXANS	§	
WITH DISABILITIES,	§	
	§	
Plaintiffs,	§	Civil Action No. 5:22-cv-409
	§	
VS.	§	
	§	
	§	
JACQUELYN CALLANEN, in her official	§	
capacity as the Bexar County Elections	§	
Administrator; and BEXAR COUNTY, TEXAS,	§	
	§	
Defendants.	§	

PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANT BEXAR COUNTY'S SUPPLEMENTAL MOTION FOR SUMMARY JUDGMENT

Plaintiffs submit the following response in opposition to Defendant Bexar County's supplemental summary judgment filing (ECF No. 55) requesting the Court dismiss this case as moot based on currently unenacted legislation.

Plaintiffs disagree that the passage of House Bill No. 3159 ("HB 3159"), which has not yet been signed into law, renders this case moot or warrants dismissal at this stage. If signed into law, HB 3159 will not take effect until September 1, 2023 (ECF No. 55 at ¶ 5) and Defendant Bexar County's compliance with and proper implementation of its accessible balloting requirements—including compliance with as-of-yet unwritten regulations from the Texas Secretary of State—will not be completed until the following election on November 7, 2023.

Thus, assuming that HB3159 is actually enacted, the earliest Defendant Bexar County could possibly satisfy the relief requested in this case would be after it completes administration of its first election under the legislation on November 7, 2023; at which time this Court would be in a position to evaluate whether the implementation and compliance with the accessible balloting requirements under HB 3519 has in fact mooted Plaintiffs' claims by granting them "the entirety of the remedies they seek." *Veasey v. Abbott*, 248 F. Supp. 3d 833, 836 (S.D. Tex. 2017) (finding claims would only be mooted by legislation once "[a]ll relief requested had been achieved").

For the foregoing reasons, Plaintiffs respectfully request that the Court deny Defendant Bexar County's supplemental request to dismiss Plaintiffs' claims as moot and proceed with the current pre-trial and trial schedule as outlined in the Scheduling Order (ECF No. 29): Joint Pretrial Order and Motions in Limine (June 16, 2023); Final Pre-trial Conference (June 29, 2023); and bench trial (to begin on July 10, 2023).

Respectfully submitted,

/s/ Lucia Romano

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CERTIFICATE OF SERVICE

I certify that on the 6th day of June, 2023, a copy of the foregoing Response in Opposition to Defendant's Supplemental Motion for Summary Judgment was electronically filed with the Court and served via the CM/ECF system upon counsel for all parties.

/s/ Eve L. Hill EVE L. HILL*